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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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OFFICE OF SECRETARY

In re:	)	
	)	
Implementation of Sections	)	
of the Cable Television	)	MM Docket No. 92-266
Protection and Competition	)	
Act of 1992; Rate Regulation	)	

COMMENTS

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TABLE OF CONTENTS

SUMMARY

In the Fourth Report and Order, the Commission adopted rules for determining the extent to which a cable system may increase its rates when it adds new channels of programming to regulated tiers. The approach embodied in those rules gives cable operators virtually no incentive to add new channels and needs to be revised.

In deciding whether or not to add a channel to a regulated tier, a cable operator must take into account, among other factors, the costs that it will incur, including, for example, the costs of activating new channel capacity, the costs of marketing and promoting the service, and the costs of complying with regulatory requirements associated with changes in rates and channel offerings. It must also take into account the revenues that it might obtain from alternative unregulated uses of the channel, such as pay-per-view and premium services. In light of these costs and alternatives, it is impossible, under the current rules, for cable operators to earn enough from adding a channel to justify their investment.

Under the rules, a system that adds a channel to a regulated tier may pass through the programming costs associated with the new channel plus a 7.5% markup on those costs (plus a flat amount that, for most systems, is limited to one or two cents). Unless new programmers charge operators several <u>dollars</u> for their service, and cable operators pass these charges along to subscribers, there is no way that a 7.5% markup can provide the operators with an amount sufficient to justify their

investment. But, of course, there is no way that operators or subscribers will pay such amounts for new tiered services. New programmers are generally willing to provide their service at very low rates to cable operators, but this does no good if operators can only recover a small percentage of this small amount. The appropriate solution is to allow operators to pass through their costs, plus a fixed -- not a percentage -- markup that is sufficient to provide operators with incentives to add new channels to regulated tiers.

The Commission has also sought comment on the extent to which the rate regulation provisions of the 1992 Cable Act and the Rules should apply to rates charged to commercial establishments. The Act was intended to regulate rates charged to consumers for residential service. It was not directed at commercial rates.

Indeed, there is no reason why such rates should be constrained by regulation. Whatever may be the case with respect to residential service, cable operators generally face effective competition from multiple sources in providing service to commercial users. Such users can and do negotiate for the best service that they can obtain for the best price. Subjecting cable operators to rate regulation in such circumstances will only interfere with the competitive marketplace, either by preventing cable operators from competing effectively or by forcing such operators to charge artificially low rates that prevent other competitors from offering customers a full range of competitive options.

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To the Commission:

COMMENTS

Cablevision Industries Corporation ("CVI"), by its attorneys, hereby submits these comments in response to the Commission's Fifth Notice of Proposed Rulemaking in the above-captioned proceeding.[1/]

INTRODUCTION

In its Fourth Report and Order in this proceeding, the Commission adopted rules establishing a methodology for determining the extent to which a cable system's maximum permissible rate for a regulated tier of service is affected when the system adds or deletes channels from the tier. That methodology embodies a three-part formula: When a system adds channels of programming, its maximum permissible rate increases by (1) the cost of the programming services on the added channels; (2) a 7.5% markup on that cost; and (3) a flat amount, based on the number of regulated channels on the system, as set forth in a table included in the new rules. The same factors are

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1/ Fifth Notice of Proposed Rulemaking, MM Docket No. 92-266, FCC 94-38, March 30, 1994 ("Fifth Notice").

applied in reverse when a system deletes channels from regulated tiers.

The third component of the formula -- the table of flat, channel-driven, increases -- is based on an "efficiency curve" that the Commission derived from its "Competitive Survey" of cable system rates in effect on September 30, 1992. The curve indicates the relationship between per-channel rates of surveyed systems and the number of channels on such systems -- an inverse relationship that, according to the Commission, reflects increased efficiency in providing greater numbers of channels. But the survey and the calculations that produced the efficiency curve were limited to systems with 100 or fewer channels on regulated tiers.

Therefore, the Commission asks in the Fifth Notice whether and how a separate methodology should be devised for adjusting rates for the addition or deletion of channels when a system provides more than 100 channels. At the same time, the Commission seeks comments on whether the approach that it has adopted for adding channels, even if theoretically sound, will provide inadequate incentives for "infrastructure development and growth of programming."[2/]

These two questions are not separate and, in fact, are closely linked. If, as we will show, the current rules provide little incentive for operators to add new programming to regulated tiers, issues arising from the presence of 100 or more

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2/ Fifth Notice, ¶ 256.

regulated channels are not likely to require significant Commission attention in the foreseeable future. Our principal focus in these comments, therefore, is on revising the current methodology to create real incentives for operators to add channels of new programming to regulated tiers, irrespective of the number of channels offered on the tier -- and that should be the Commission's principal concern as well.

The Commission also asks whether special rules should be adopted to permit special rates for regulated commercial cable service, and, in particular, whether any higher earnings by cable operators for this type of service should be offset by savings offered to other -- presumably residential -- subscribers. The Commission also asks what standard of "reasonableness" should govern any special commercial rates.

The Commission should not regulate in any manner the rates cable operators charge commercial establishments. CVI presents evidence in these Comments that demonstrates that cable operators face significant competition from other multichannel programming distributors in the commercial establishment marketplace. In other words, even if cable operators wanted to charge supra-competitive rates to hotels, bars and restaurants, they simply would not have the ability to do so.

I. **The Current Going-Forward Methodology for Adjusting Capped Rates Will Not Provide Sufficient Incentives for Operators to Add Significant Amounts of New Programming.**

In seeking comments on whether its going-forward methodology provides proper incentives for investing in programming and infrastructure, the Commission is asking precisely the right question. Implicit in the Commission's inquiry is a welcome recognition that a regulatory approach that rests primarily on a static survey of average industry rates provides, at best, only a crude approximation of what rates are "reasonable" in any particular circumstances.

Excessive reliance on a flawed technical analysis of the survey data has already resulted in the establishment of maximum permissible rates that bear no relationship to the costs, investments and risks incurred by individual systems and that artificially impair the quality of service available to cable subscribers. And, as the Commission seems to suspect, the result of its reliance on this analysis to devise a going-forward methodology -- a methodology that allows operators that add a new channel to increase overall rates, in most circumstances, by one cent -- will be to eliminate any incentives for the addition of new channels of programming on regulated tiers.

What is wrong is not the <u>concept</u> of a pass-through of programming costs plus a markup. What is wrong with the Commission's approach is that the current <u>fixed</u> markup is virtually nil and that a <u>percentage</u> markup cannot provide sufficient incentives to carry new, low-cost programming. A better approach would be to rely on a pass-through of programming costs plus a fixed markup, but to base that fixed markup not on the Commission's survey analysis but on a more realistic assessment of the costs, risks and alternatives faced by cable operators in determining whether or not to add channels to regulated tiers.

A. The Amount that a Cable Operator Must Recover When it Adds a Channel Depends on Several Factors and Substantially Exceeds the Costs of the Added Programming.

In the absence of the distortions and complications introduced by rate regulation, there have always been several reasons why a cable system might choose to add new channels of programming. Two of the principal reasons are (1) to increase subscribership and (2) to enhance the value of cable to existing subscribers.

But new channels are no longer as effective as they once were as a tool for increasing subscribership. There are still many television households that choose not to subscribe to cable television, and given the diversity of programming that already exists on most cable systems, it is no longer reasonable to expect to attract many of these holdouts by adding more tiered channels of programming. For a long period, each year's increase in cable penetration exceeded the last -- but that period is over. Today, most new channels can only pay their way by adding to the value of cable service to existing subscribers, so that these subscribers are willing to pay more for the service. And this means that adding channels must be accompanied by rate increases that are sufficient to compensate the operator for the real costs of adding channels.

These costs obviously include -- but certainly are not limited to -- any fees charged by the programmer. Indeed, for reasons that we will soon explain, the fees charged by a new programmer are likely to be the least of an operator's costs in adding channels. There are costs incurred for: (1) adding and activating channel capacity; (2) marketing and promoting the service to induce subscribers to sample, accept and retain the programming;[3/] (3) required mailings to notify subscribers; (4) the preparation of applicable forms; (5) revised billing notices; and (6) complying with rate regulation procedures.

These costs are likely to be substantial. For example, the cost of additional headend equipment alone required in connection with a new channel ranges between $3,000 and $30,000, depending on whether or not additional microwave links are necessary. For CVI, the average cost of such equipment is approximately $6,000 per channel and the average system subscribership per headend is approximately 8,000 subscribers.

3/ While there are significant marketing and promotional costs associated with the addition of channels to regulated tiers, these costs would multiply geometrically if adding such channels were deemed by state and local governments to be subject to "negative option" prohibitions. Indeed, if a cable operator could not add channels to a regulated tier without first asking each existing subscriber whether he or she wanted to continue receiving the tier, the cost of adding channels would be prohibitive, regardless of whether or not the Commission revised its "going forward" methodology.

The costs of headend equipment alone for a system with these average characteristics would, in other words, be $.75 per subscriber.[4/]

In addition, depending on the technical configuration of the system, an added channel may require a converter be placed in a subscriber's residence to receive and/or unscramble the channel. The cost of each additional converter is approximately $100 per subscriber per television set connected to the cable service.

Moreover, the costs discussed above do not even reflect the substantial capital costs involved in creating the open channel in the first place -- upgrade or rebuild costs amount to hundreds of dollars per subscriber. Obviously, the current methodology does not begin to provide a reasonable payback for the operator when all of these direct costs are considered.

Wholly apart from the direct costs that are incurred when a channel is added, cable operators must take into account alternatives to adding the channel and the revenues that might be produced by those alternatives. In today's regulated

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4/ Use of the word "average," however, in this context is even something of a misnomer. Often a system's architecture will determine the cost of adding additional channels. For example, an operator's use of AML technology -- which was pioneered by the cable industry -- provides an efficient mechanism for delivering multiple channels of programming across significant distances. While efficient, however, it is costly to add a channel when such technology is employed. Because system architecture varies so greatly among cable operators, the direct costs incurred when adding a channel will vary widely as well.

environment, the principal alternatives to adding a channel to a regulated tier are adding a channel of unregulated service or not adding a channel at all -- at least for the time being.

In terms of incremental revenue, current industry estimates indicate that the value of adding an unregulated tier is as follows:

- a la carte tier: $.95/sub./mo./channel (assumes 75% penetration)
- mini-pay service: $1.19/sub./mo./channel (assumes 50% penetration)
- pay-per-view: $.18/sub./mo./channel (assumes 10% buy rate)[5/]

The prospect of realizing these kinds of incremental revenues from non-regulated uses of the channel -- coupled with the likelihood that multiple pay-per-view channels will become increasingly available from new services such as DBS and video dialtone -- will to some extent determine how much a cable operator might reasonably expect to receive, in addition to covering its costs, if it is instead to choose to use the channel for a regulated service.

In making this assessment, the cable operator must also consider how difficult it is to drop a satellite network once it has been added. Carriage agreements with programmers typically have multi-year terms with "no-deletion" clauses. Therefore, once services are added, operators are often contractually prohibited from dropping them. In addition,

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5/ Paul Kagan Cable TV Programming, Feb. 28, 1994, p. 3.

dropping a service from a tier always guarantees complaints and ill will among some subscribers. Part of cable's appeal is its ability to "narrowcast" -- that is, to provide programming that appeals to niche audiences rather than only to the least common denominator. Every service, no matter how narrow the niche, attracts its ardent fans, and the anticipated wrath of these subscribers will deter even the most stalwart cable operator from dropping a service in favor of one that the operator merely hopes will appeal to more subscribers.

What all this means is that a decision to carry a service is a decision to tie up a channel for a prolonged period of time and to forgo, during that period, alternative uses of the channel. In other words, the operator must consider not only whether it could earn more by using the channel in some other way <u>today</u>, but also whether it would be preferable not to activate the channel at all, so that it might be available for a more valuable use <u>tomorrow</u>.

Further, it is unlikely that a cable operator would, in a regulated environment, add channels of little value to regulated tiers merely to charge higher rates. This is because any enhanced value that may result initially from the addition of a channel will be dissipated if the new service is a flop -- and this reduction in value and demand will necessarily result either in a reduction in rates or a reduction in subscribership, and will diminish rather than enhance overall customer satisfaction.

Balancing all these factors -- the costs of activating and adding a channel, the "opportunity costs" of forgoing alternative options, the value that subscribers would place on the added service, and the likelihood of a particular service's ultimate success or failure -- is hardly an exact science. Some costs are measurable, but other assessments are based on instinct and experience. Other operators will have their own assessments, but CVI's view is that in light of the costs and alternatives that currently exist, it would be difficult to justify adding a channel to one of our regulated tiers unless we could count on recovering at the outset, depending on the particular service added, at least 35 to 40 cents more than the cost of the programming. CVI believes that there are new services available now -- and on the drawing boards -- that will increase the value of tiers to consumers by at least this amount.

B. The Current Approach, Based on Programming Costs Plus a Percentage Markup, Will Not Allow Operators To Recover What They Need To Add New Channels to Regulated Tiers.

Allowing cable operators that add channels to increase their rates by the cost of the added programming plus a mere 7.5% markup will virtually never permit operators to recover what they need to justify adding a channel. The problem is that, under this approach, the lion's share of any increase in rates that accompanies the addition of a channel must go to the programmer. If a programmer sells its service to an operator for

10 cents per subscriber, the operator is allowed to increase rates by only $0.1075 per subscriber, retaining less than a cent for itself. If the operator is to retain more than an insignificant amount, the programmer must charge the operator a very significant amount -- and the operator must pass this significant amount through to subscribers in increased rates. This does not reflect economic reality and it will not work.

Suppose, for example, that, as suggested above, a cable operator needs to retain at least 35 - 40 cents per subscriber in increased rates to justify adding a particular service. The operator can only retain this amount if the programmer charges it $4.67 per subscriber per month, and the operator then increases rates by this amount plus $0.35 (which is 7.5% of $4.67). This will not work, because the value of most, if not all, new channels to subscribers will be nowhere near $5.00 per month and they simply will not pay it.

In reality, subscribers would not be willing to pay much more in increased rates for a new channel than the 35 - 40 cents that cable operators need to retain in order to add the channel. In other words, if new channels are to be added, it is the cable operator who must be allowed to retain the lion's share of any accompanying rate increase, with new programmers receiving only a small percentage themselves. New programmers generally understand -- and are willing to accommodate -- these economic realities. At the outset, most new programmers are willing to provide their service at very low rates (a few cents per subscriber, not a few dollars!) in order to induce cable operators to add their service to tiers that are likely to reach most subscribers. Only by gaining widespread exposure can programmers hope to develop brand-name recognition and popularity among subscribers -- which will enable them, in the longer run, to charge more for their service and to receive substantial advertising revenues. The current rules, however, make such an accommodation impossible.

Obviously, the current rules provide no incentive at all to add new channels of programming to regulated tiers. The only types of programming that can even conceivably be added profitably are those for which the operator can charge an additional several dollars per subscriber. Those are precisely the sorts of premium services that are typically offered on an unregulated per-channel basis -- with operators retaining substantially more than 7.5% of the price paid by subscribers. Unless the rules are changed, there will be few new services added to regulated tiers.

The solution is to replace the 7.5% markup on the costs of programming on additional channels with a flat markup that is sufficient to provide incentives to add channels. As noted above, the current approach includes a fixed markup in addition to programming costs and a percentage markup, but it is negligible to the point of being irrelevant.

That markup was derived from the "efficiency curve" that the Commission, in turn, derived from its regression analysis of survey data. As a theoretical matter, that approach seems to have been methodologically flawed. The efficiency curve reflects the differences in average rates charged by systems with different numbers of tiered channels on September 30, 1992. But this is not at all the same as identifying the extent to which any particular system's rates changed when that system added channels. A survey of rate <u>increases</u> implemented by systems when they added channels would have been necessary to obtain the data relevant to the current inquiry. Given the obvious inadequacy of the one-cent markup derived from the efficiency curve, it is reasonable to assume that such a survey of the rate changes that accompanied channel additions would have produced very different results.

For the reasons that we have discussed, there is no perfect way to estimate the appropriate fixed markup. Nevertheless, if, as we have suggested, operators need only to be able to count on a 35 to 40 cent markup over programming costs to have sufficient incentives to add at least some new services, then a fixed markup in that range should be able to foster new programming without resulting in excessive rate increases. Of course, such a markup could result in substantial jumps in rates if operators added a multitude of regulated services all at once, or if they added a number of expensive new services. It is not likely that operators would add more than a handful of services each year, given the number of services already competing for viewership on regulated tiers and the increased use of available channels for new, unregulated services such as pay-per-view. But the Commission could protect against excessive increases by limiting the total increase in rates attributable to the addition of channels over any two-year period. For example, if the Commission adopted a rule allowing pass-throughs of programming costs plus 35 - 40 cents for each added channel, it would be reasonable to limit such increases to $1.50 annually (which amount would include the programming license fee and the fixed pass-through) and to allow operators to accrue such increases for two years -- at which point, they would either have to use them or lose them. The one-year carry-over is necessary to accommodate upgrades and rebuilds, in which case a system will probably not have added any new programming for a period of several years due to channel constraints.

This approach would encourage operators to select and add the best of the new services that become available each year, while minimizing the risk that they would add a large number of essentially worthless channels merely to charge higher rates. Most importantly, it would provide incentives to programmers to continue investing in new non-premium services, and it would provide incentives to cable operators to continue to add such programming in a regulated environment.

II. **The Regulation of Rates Charged by Cable Operators to Commercial Establishments is not Sanctioned by the 1992 Cable Act and is Unwarranted.**

In the Fifth Notice, the Commission solicits comment on the issue of whether rules should be adopted with respect to "special rates for regulated commercial cable service."[6/] In effect, without new rules, cable operators will be required to charge hotels, motels, bars, and other commercial establishments the same rates the operator charges to residential subscribers who purchase cable service for private in-home viewing.

The Commission, however, appears willing to consider "allowances" for commercial cable rates if any earnings accruing from higher-than-residential commercial rates are passed back in the form of savings to residential consumers (by an as yet undetermined formula). The Commission has asked for help in determining the standards of "reasonableness" it should employ in governing commercial rates.

CVI respectfully submits that the most "reasonable" approach -- and the one intended by Congress -- would be for the Commission to step back and allow the commercial video service marketplace to continue functioning as it always has. As CVI will demonstrate, its cable systems face significant competitive pressure when selling to commercial accounts. Therefore, CVI encourages the Commission to let business people continue their negotiations as they have in the

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6/ Fifth Notice, ¶ 257.

past, without having to submit the process to an unnecessary regulatory regime.

CVI further submits that the concept of requiring the passing back of higher commercial earnings to residential subscribers would be directly contrary to Congress' intent as well as the Commission's policy to date. The concept appears diametrically opposed, for example, to that of "tier neutrality." CVI finds no rationale or support -- either in the Cable Act or the Commission's policies to date -- which favor the subsidization of certain classes of subscribers at the expense of others.

A. The Cable Television Consumer Protection and Competition Act of 1992 was not Conceived as a General Business Protection Law.

The Commission's decision to regulate the rates cable operators charge commercial establishments neither was contemplated in nor is sanctioned by the Cable Consumer Protection and Competition Act of 1992 (the "Cable Act"). While the Cable Act speaks of redressing the imbalance of power between "consumers" and cable operators,[7/] the evidence is clear that commercial establishments are not subject to these purported bargaining disparities. The regulatory regime governing

7/ "[M]ost cable television subscribers have no opportunity to select between competing cable systems. Without the presence of another multichannel video programming distributor, a cable system faces no local competition. The result is undue market power for the cable operator as compared to that of consumers[.]" 1992 Cable Act, Section 2(a)(2).

residential rates is simply unnecessary and inappropriate to the commercial arena.

As an initial matter, cable operators like CVI negotiate individual contracts with commercial accounts, contracts that involve a significant amount of give-and-take and negotiating savvy on both sides. On a system-wide basis, CVI employs a staff of fifteen people to negotiate these contracts. This is not simply a pro forma matter of sending someone a form to fill out and return with a deposit. Terms, particularly price terms, are the subject of considerable negotiation and, as will be demonstrated below, CVI does not always end up servicing the account. Often business owners and managers purchase video services for a large number of properties and have considerable leverage over operators like CVI. The idea that these businesses require "protection" from the local cable operator would likely strike them, as it does CVI, as more than slightly absurd.

Moreover, these businesses use video services in a radically different manner than the residential consumer. In large part, today's residential subscriber relies on cable service to bring news, entertainment, information and even retail opportunities into the home. In contrast, the commercial establishment utilizes cable television (or, increasingly, the service of another multichannel video distributor) as only one element of the total service package it offers its customers. In other words, the hotel, the bar, and the retail store each can and does calculate the value of a "video service" of some sort to its own commercial viability, much as each does with respect to audio services (whether radio broadcast retransmissions or music services). Just as each establishment makes the decision to provide a variety of amenities to attract or preserve its clientele (for example, in-room VCRs, health clubs and other necessities of modern life), it similarly will make the decision whether adding a video service (whether cable or otherwise) is commercially viable.

The argument that an "over-priced" cable service will deprive these establishments (or their customers) of a diverse source of information and entertainment just does not ring true. To the local bar owner, the presence of a television set in the establishment is probably no more important than the decor or the juke box (and probably much less important than the brand of beer sold). However, irrespective of how "important" the video service is, it is important to keep in mind that the businesses that operate hotels, motels, bars, taverns, hospitals and other kinds of commercial establishments <u>know the value of every element that comprise their business, and only pay what they think is justified</u>. The idea that the local cable operator is somehow "overreaching" with respect to these businesses is simply unrealistic.[8/]

8/ For example, one local CVI cable manager negotiates regularly with a company that manages almost 90 hotel properties. This particular company generally selects packages from either Lodgenet, ComSat, World Cinema or Spectradyne. CVI has managed to negotiate <u>one</u> contract with this company under which it provides service to one particular hotel property.

Finally, the Commission's proposal that allowances be made for higher commercial rates only if higher commercial "earnings" are somehow returned to consumers is flawed. While the Commission appears concerned about the details of this "sharing" plan, it overlooks the fact that operators (1) will have no incentive to charge higher rates to commercial establishments if they must then simply turn around and hand these earnings to residential subscribers and (2) currently face competition from other multichannel video programming providers and cannot, on a whim, charge supra-competitive rates to commercial establishments.[9/] CVI discusses its experience in the commercial account marketing field below.

B. CVI Faces Significant Competition in the Commercial Account Marketing Field from a Variety of Multichannel Video Programming Distributors.

CVI salespeople who service commercial accounts share a consensus view on the issue of whether "effective competition" exists in the field: it does. Far from passively accepting what the CVI salesperson first proposes, commercial establishments are quite willing to dicker over the terms of cable service agreements (particularly price), and have numerous alternatives to the cable operator for obtaining video services.

9/ Perversely, if other multichannel providers are charging significantly higher than benchmark rates to commercial establishments, and the Commission forces cable operators to charge residential benchmark rates, cable operators may be forced to so under-price their competitors that viable competition may be undercut or destroyed.

CVI frequently finds itself <u>bidding</u> against other programming distributors who frequently only provide a few premium services and satellite networks like ESPN and HBO to the establishment.[10]

CVI's recent record with respect to commercial accounts -- while probably reflective of the cable industry as a whole -- does not paint a portrait of an industry that simply dictates terms to its customers. For example, a state college in New York recently rejected CVI's bid to offer 31 channels to its dormitories in favor of creating its own dish and antenna system. Rather than offer 31 channels to its students, the college instead made the commercially reasonable decision to only offer 5 or 6 channels. The same CVI cable system in upstate New York was recently forced to renegotiate its rates with a local nursing home because of a competing offer from a programming distributor that provides only 21 channels of programming. In addition to lowering its rates, CVI agreed to perform significant installation work for the home.

In terms of service to hotels and motels, CVI's offer to provide service is almost always met by competition from numerous satellite companies, including Spectradyne, Comsat, On

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10/ Because patrons of local taverns and visitors staying in area hotels are unlikely to value local channels that appear on the system's basic tier (including PEG and leased access channels, and even many local broadcast signals), these "tailored" services are often more appealing to the commercial account than the broader service the cable operator must provide under the law. This factor alone provides a significant competitive advantage to non-cable programming distributors.

Command Video, Lodgenet, World Cinema and wireless cable companies like Capital Wireless.[11] These companies typically offer premium services like SHOWTIME, CNN, ESPN, WTBS and TNT to hotels whose clientele are more interested in nationally programmed services than channels offering more local fare. Cable operators like CVI have not made significant inroads into this marketplace, and the established vendors appear to have solidified their positions.[12]

In terms of service to bars and taverns, CVI frequently finds owners electing to purchase satellite dishes and taking service from one of the many satellite service providers. Again, these distributors are able to tailor packages to meet the needs of these commercial accounts to a far greater extent than is the local CVI cable operator.[13]

11/ Spectradyne is by far the dominant player in the hotel marketplace, delivering programming to over half of the 1.1 million hotel rooms equipped for pay-per-view technology. COMSAT reaches about 300,000 hotel rooms. CVI became the first MSO entrant in this field when it entered a deal with several Florida hotels in October, 1993. Multichannel News, October 18, 1993, p.28.

12/ On October 21, 1993, Holiday Inn Worldwide announced that it was awarding "preferred vendor status" to COMSAT and Spectradyne to provide in-room entertainment and information services for the company's approximately 1,550 hotels. PR Newswire, October 21, 1993.

13/ In terms of other commercial opportunities, "wireless cable" appears to have taken a competitive edge in terms of selling video service to downtown office buildings, shopping malls and other un-wired business locations. See "Cable Gives Wireless the Business," Broadcasting & Cable, May 9, 1994, p. 44 ("Even while undercharging cable, wireless can charge businesses more than it gets from residential customers.").